

INFORMATIVE DIGEST/SECTION 100 JUSTIFICATION

This regulation package is a derivative of Assembly Bill (AB) 40 (2012) and Senate Bill (SB) 1051 (2012). Effective January 1, 2013, AB 40 and SB 1051 amended Welfare and Institutions Code (WIC) section 15630, AB 40 amended WIC section 15631 and AB 40 added Section 15610.67 to the WIC relating to elder and dependent adult abuse.

These statutes changed the reporting requirements for mandated reporters for elder and dependent adult abuse, added the definition of serious bodily injury into WIC section 15610.67, language taken from the Elder Justice Act, and delineated reporting timelines for physical abuse resulting in serious bodily injury (within two hours), and physical abuse not resulting in serious bodily injuries (within 24 hours). The regulations are amended to add these non-discretionary requirements so the regulations align with statute.

Changes have also been made to remove irrelevant authority and reference citations, correct typographical errors, making sentences grammatically correct, and other non-substantive grammatical changes in the interest of clarity. Amendments to handbook have been made to conform to referenced statutory changes.

These regulatory amendments to Chapters 1 (General Licensing Requirements), 2 (Social Rehabilitation Facilities), 3 (Adult Day Programs), and 8 (Residential Care Facilities for the Elderly) of Division 6, Title 22, California Code of Regulations (CCR) qualify as a CCR, Title 1, Division 1, Chapter 1, Article 2, Section 100, change without regulatory effect because they do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision and make non-discretionary regulatory provisions consistent with superseding California statute. These amendments conform the regulations to statutory changes, provide for clarity and ease of use, include renumbering, and reordering, and, in part, maintaining specific existing statutory reporting standards, while the statutory heightened reporting standards are not being interpreted or made more specific, (see 1 CCR Section 100(a)(1), (a)(4), and (a)(6)). These amendments are necessary to comply with WIC sections 15610.67 and 15630. In order to comply with the provisions of these statutes and bring the regulations into conformity with the law, California Department of Social Services is revising these regulations.

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)
COMMUNITY CARE LICENSING DIVISION (CCL)
TITLE 22, CALIFORNIA CODE OF REGULATIONS, DIVISION 6. Chapter 1 (General
Licensing Requirements), Chapter 2 (Social Rehabilitation Facilities), Chapter 3 (Adult Day
Programs), and Chapter 8 (Residential Care Facilities for the Elderly).

Assembly Bill 40 (Statutes of 2012) and Assembly Bill 1051 (Statutes of 2012) amended Welfare
and Institutions Code sections 15610.67 and 15630 directly affecting the following Title 22
regulations.

Sections Affected in Title 22, Division 6, Chapters 1, 2, 3 and 8:

Sections 80001(m)(1)-(3), 80001(s)(1)-(7), 80061(b)(1)(F)-(J), 80061(c), 81001(m)(1)-(3),
81001(s)(1)-(8), 81061(b)(1)(F), 81061(c)-(h), 82001(m)(1)-(3), 82001(s)(1)-(7), 82061(a)(1)(E)-(I),
82061(b)-(e), 82065(f)(9) Handbook, 87101(m)(1)-(2), 87101(s)(1)-(10), 87211(a)(1)(D), and
87211(b)-(c).

Justification for Changes Without Regulatory Effect:

Pursuant to Title 1, Division 1, Chapter 1, Article 2, subsection 100(b)(1) and (6), of the California
Code of Regulations (CCR), the California Department of Social Services (CDSS) hereby submits
this written statement explaining why the proposed amendments to Chapters 1, 2, 3, and 8 of
Division 6, Title 22, CCR do not materially alter any requirement, right, responsibility, condition,
prescription, or other regulatory element of any CCR provision.

The adoption, amendment or repeal of regulations is ordinarily accomplished by following the
rulemaking procedural and substantive requirements of the Administrative Procedure Act (APA). In
1986, OAL adopted a regulation to create a procedure which allows for certain regulation changes
without following the notice and procedural requirements of the APA. This OAL regulation, found at
CCR, Title 1, section 100, is based upon the rationale that changes to rules that have no regulatory
effect do not involve rulemaking and the belief that following the APA for such changes imposes an
unnecessary burden with no corresponding benefit. CCR, Title 1, section 100 filings are, of
necessity, limited to changes that "do not materially alter any requirement, right, responsibility,
condition, prescription or other regulatory element of any CCR provision." (CCR, Title 1,
subsections 100(a)(1), (4) and (6)).

The proposed changes to the above-referenced sections do not materially alter any requirement, right,
responsibility, condition, prescription, or other regulatory element of any CCR provisions because
they include relettering and renumbering, conform to mandatory statutory language and provide
clarity and ease of use.

Written Statement:

The regulations below apply to Chapter 1, General Licensing Requirements.

Section 80001(m)(1)

Proposed Change:

Amend to add new language as subsection (m)(1) to incorporate by reference the definition of “mandated reporter” as defined by Welfare and Institutions and Code section 15630(a).

Section 100 Justification:

Adding this language is a change without regulatory effect pursuant to CCR, Title 1, section 100 because it is added for clarity and ease of use, and includes an existing statutory definition which is already a binding definition related to the reporting standards. This change in the regulatory reference does not require regular rulemaking because the statute already requires this definition and it is not being interpreted or made more specific. Adding this language does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of these regulations. Therefore, for these reasons, this addition of language to the regulations is within the purview of CCR, Title 1, section 100.

Section 80001(m)(1)-(2)

Proposed Change:

Amend and renumber subsections (m)(1) through (m)(2) as (m)(2) through (m)(3) because new language added as subsection (m)(1) (see above).

Section 100 Justification:

These proposed changes do not materially alter any requirement, right, responsibility, condition, proscription or other regulatory element of any CCR provision because this is a change without regulatory effect under CCR, Title 1, subsection 100(a)(1) which states: “Changes without regulatory effect include, ... Renumbering, reordering, ...” These proposed changes renumber subsections without any change to the regulations.

Section 80001(s)(1)

Proposed Change:

Amend to add new language as subsection (s)(1) to incorporate by reference the definition of “serious bodily injury” as defined by Welfare and Institutions and Code section 15610.67.

Section 100 Justification:

Adding this language is a change without regulatory effect pursuant to CCR, Title 1, section 100 because it is added for clarity and ease of use, and includes an existing statutory definition which is already a binding definition related to the reporting standards. This change in the regulatory reference does not require regular rulemaking because the statute already requires this definition and it is not being interpreted or made more specific. Adding this language does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of these regulations. Therefore, for these reasons, this addition of language to the regulations is within the purview of CCR, Title 1, section 100.

Section 80001(s)(1)-(7)

Proposed Change:

Amend and renumber subsections (s)(1) through (s)(7) as (s)(2) through (s)(8) because new language added as subsection (s)(1) (see above).

Section 100 Justification:

These proposed changes do not materially alter any requirement, right, responsibility, condition, proscription or other regulatory element of any CCR provision because this is a change without regulatory effect under CCR, Title 1, subsection 100(a)(1) which states: "Changes without regulatory effect include, ... Renumbering, reordering, ..." These proposed changes renumber subsections without any change to the regulations.

Section 80061(b)(1)(F)

Proposed Changes:

Amend subsection (b)(1)(F) to remove the words "physical or."

Section 100 Justification:

The reporting requirements for suspected physical abuse for dependent adults are no longer consistent with the current regulatory requirements established in subsection 80061(b). In order to bring this subsection current, subsection (b)(1)(F) needs to address required reporting of only psychological abuse. This change provides that the reporting requirements for suspected psychological abuse of clients remain the same in subsection (b)(1)(F). The new reporting requirements for suspected physical abuse of elder and dependent adults mandated by Welfare and Institutions Code subsection 15630(b)(1) are now incorporated into these regulations (see subsection 80061(c)). The reporting standards for minors are addressed in subsection 80061(b)(1)(G). These changes do not require regular rulemaking because the existing reporting standards are maintained and the heightened reporting standards of subsection 15630(b)(1) are not being interpreted or made more specific.

Section 80061(b)(1)(G)

Proposed Changes:

Amend to add additional language as subsection (b)(1)(G) for reporting suspected physical abuse of any minor.

Section 100 Justification:

Subsection (G) has been added to maintain the reporting standards of suspected physical abuse of any minor. These changes do not require regular rulemaking because the existing reporting standards are maintained and are not being interpreted or made more specific.

Section 80061(b)(1)(H)-(K)

Proposed Change:

Amend and reletter subsections (G) through (J) as (H) through (K) because of added subsections (G).

Section 100 Justification:

See explanation for amending subsections 80001(s)(1)-(7).

Section 80061(c)

Proposed Change:

Amend to add language as subsection (c) which provides for reporting physical abuse with serious bodily injury of an elder or dependent adult within two (2) hours incorporating by reference Welfare and Institutions Code subsection 15630(b)(1).

Section 100 Justification:

Adding this language is a change without regulatory effect pursuant to CCR, Title 1, section 100. This change incorporates by reference the statutory requirements set forth in Welfare and Institutions Code subsection 15630(b)(1). This regulatory change is consistent with changed statute, provides for clarity and ease of use, and does not change existing requirements. For these reasons, it is within the purview of CCR, Title 1, section 100.

Section 80061(d)

Proposed Change:

Amend to add language as subsection (d) which provides for reporting physical abuse without serious bodily injury of an elder or dependent adult within twenty-four (24) hours incorporating by reference Welfare and Institutions Code subsection 15630(b)(1).

Section 100 Justification:

See explanation for amending subsection 80061(c) above.

Section 80061(c)-(h)

Proposed Change:

Amend and reletter (c) through (h) as (e) through (j) because new language added as subsection (c) and (d) (see above).

Section 100 Justification:

See explanation for amending subsections 80001(s)(1)-(7).

Written Statement:

The regulations below apply to Chapter 2, Social Rehabilitation Facilities.

Section 81001(m)(1)

Proposed Change:

Amend to add new language as subsection (m)(1) to incorporate by reference the definition of “mandated reporter” as defined by Welfare and Institutions and Code section 15630(a).

Section 100 Justification:

Adding this language is a change without regulatory effect pursuant to CCR, Title 1, section 100 because it is added for clarity and ease of use, and includes an existing statutory definition which is already a binding definition related to the reporting standards. This change in the regulatory reference does not require regular rulemaking because the statute already requires this definition and it is not being interpreted or made more specific. Adding this language does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of these regulations. Therefore, for these reasons, this addition of language to the regulations is within the purview of CCR, Title 1, section 100.

Section 81001(m)(1)-(3)

Proposed Change:

Amend and renumber subsections (m)(1) through (m)(2) as (m)(2) through (m)(3) because new language added as subsection (m)(1) (see above).

Section 100 Justification:

These proposed changes do not materially alter any requirement, right, responsibility, condition, proscription or other regulatory element of any CCR provision because this is a change without regulatory effect under CCR, Title 1, subsection 100(a)(1) which states: "Changes without regulatory effect include, ... Renumbering, reordering, ..." These proposed changes renumber subsections without any change to the regulations.

Section 81001(s)(1)

Proposed Change:

Amend to add new language as subsection (s)(1) to incorporate by reference the definition of "serious bodily injury" as defined by Welfare and Institutions and Code section 15610.67.

Section 100 Justification:

See explanation for amending subsection 80001(s)(1).

Section 81001(s)(1)-(8)

Proposed Change:

Amend and renumber subsections (s)(1) through (s)(8) as (s)(2) through (s)(9) because new language added as 81001(s)(1).

Section 100 Justification:

See explanation for amending subsections (s)(1)-(7).

Section 81061(b)(1)(F)

Proposed Changes:

Amend subsection (b)(1)(F) to remove the words "physical or."

Section 100 Justification:

The reporting requirements for suspected physical abuse for elder or dependent adults are no longer consistent with the current regulatory requirements established in subsection 80061(b). In order to bring this subsection current, subsection (b)(1)(F) needs to address required reporting of only psychological abuse. This change provides that the reporting requirements for suspected psychological abuse of elder or dependent adults remain the same in subsection (b)(1)(F). The new reporting requirements for suspected physical abuse of clients mandated by Welfare and Institutions Code subsection 15630(b)(1) are now incorporated into these regulations (see subsection 81061(c)). These changes do not require regular rulemaking because the existing reporting standards are maintained and the heightened reporting standards of subsection 15630(b)(1) are not being interpreted or made more specific.

Section 81061(c)

Proposed Change:

Amend to add language as subsection (c) which provides for reporting suspected physical abuse with serious bodily injury of an elder or dependent adult within two (2) hours, incorporating by reference Welfare and Institutions Code subsection 15630(b)(1).

Section 100 Justification:

See explanation for amending subsection 80061(c).

Section 81061(d)

Proposed Change:

Amend to add language as subsection (d) which provides for reporting physical abuse without serious bodily injury of an elder dependent adult within twenty-four (24) hours, incorporating by reference Welfare and Institutions Code subsection 15630(b)(1).

Section 100 Justification:

See explanation for amending subsection 80061(c).

Section 81061(c)-(h)

Proposed Change:

Amend and reletter (c) through (h) as (e) through (j) because of language added as subsection 81061(c).

Section 100 Justification:

See explanation for amending subsections 80001(s)(1)-(7).

Written Statement:

The below regulations apply to Chapter 3, Adult Day Programs.

Section 82001(m)(1)Proposed Change:

Amend to add new language as subsection (m)(1) to incorporate by reference the definition of “mandated reporter” as defined by Welfare and Institutions and Code section 15630(a).

Section 100 Justification:

Adding this language is a change without regulatory effect pursuant to CCR, Title 1, section 100 because it is added for clarity and ease of use, and includes an existing statutory definition which is already a binding definition related to the reporting standards. This change in the regulatory reference does not require regular rulemaking because the statute already requires this definition and it is not being interpreted or made more specific. Adding this language does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of these regulations. Therefore, for these reasons, this addition of language to the regulations is within the purview of CCR, Title 1, section 100.

Section 82001(m)(1)-(2)Proposed Change:

Amend and renumber subsections (m)(1) through (m)(2) as (m)(2) through (m)(3) because new language added as subsection (m)(1) (see above).

Section 100 Justification:

These proposed changes do not materially alter any requirement, right, responsibility, condition, proscription or other regulatory element of any CCR provision because this is a change without regulatory effect under CCR, Title 1, subsection 100(a)(1) which states: “Changes without regulatory effect include, ... Renumbering, reordering, ...” These proposed changes renumber subsections without any change to the regulations.

Section 82001(s)(1)Proposed Change:

Amend to add new language as subsection (s)(1) to incorporate by reference the definition of “serious bodily injury” as defined by Welfare and Institutions and Code section 15610.67.

Section 100 Justification:

See explanation for amending subsection 80001(s)(1).

Section 82001(s)(1)-(7)

Proposed Change:

Amend and renumber subsections (s)(1) through (7) as (s)(2) through (8) because new language added as subsection 82001(s)(1) (see above).

Section 100 Justification:

See explanation for amending subsections (s)(1)-(s)(7).

Section 82061(a)(1)(E)

Proposed Change:

Amend subsection (a)(1)(E) by deleting the words “physical or.”

Section 100 Justification:

Removing this language from (a)(1)(E) is not a material change because it conforms to mandatory statutory language. The reporting standard for reporting physical abuse for elder or dependent adults is no longer consistent with the current regulatory requirements. In order to bring this subsection current, it needs to address only psychological abuse reporting of elder or dependent adult clients. This change provides the reporting requirements for suspected psychological abuse of elder or dependent adults remain the same in subsection (a)(1)(E). The new reporting requirements for suspected physical abuse of elder or dependent adults mandated by Welfare and Institutions Code subsection 15630(b)(1) are now incorporated into these regulations (see 82061(b)). These changes do not require regular rulemaking because the existing reporting standards are maintained and the heightened reporting standards of subsection 15630(b)(1) are not being interpreted or made more specific. Therefore, for these reasons, this deleted language from the regulations is within the purview of CCR, Title 1, section 100.

Section 82061(b)

Amend to add language as subsection (b) which provides for reporting suspected physical abuse with serious bodily injury of an elder or dependent adult within two (2) hours incorporating by reference Welfare and Institutions Code subsection 15630(b)(1).

Section 100 Justification:

See explanation for amending subsection 80061(c).

Section 82061(c)

Proposed Change:

Amend to add language as subsection (c) which provides for reporting suspected physical abuse without serious bodily injury of an elder dependent adult within twenty-four (24) hours incorporating by reference Welfare and Institutions Code subsection 15630(b)(1).

Section 100 Justification:

See explanation for amending subsection 80061(c).

Section 82061(b)-(e)

Proposed Change:

Amend and renumber existing (b) through (e) as (d) through (g) due to language described above as new subsection (b) and (c).

Section 100 Justification:

See explanation for amending subsections 80001(s)(1)-(7).

Written Statement:

The below regulations apply to Chapter 8, Residential Care Facilities for the Elderly.

Section 82065(f)(9)Handbook

Proposed Change:

Amend the handbook to remove outline numbering and quote marks, correct quoted Welfare and Institutions Code section 15630(b) and include the references to Section 15610.63 of the Welfare and Institutions Code. This handbook is to make referencing pertinent California Code readily available and has no regulatory effect.

Section 87101(m)(1)

Proposed Change:

Amend to add new language as subsection (m)(1) to incorporate by reference the definition of “mandated reporter” as defined by Welfare and Institutions and Code section 15630(a).

Section 100 Justification:

Adding this language is a change without regulatory effect pursuant to CCR, Title 1, section 100 because it is added for clarity and ease of use, and includes an existing statutory definition which is already a binding definition related to the reporting standards. This change in the regulatory reference does not require regular rulemaking because the statute already requires this definition and it is not being interpreted or made more specific. Adding this language does not materially alter any requirement, right, responsibility, condition, prescription or other regulatory element of these regulations. Therefore, for these reasons, this addition of language to the regulations is within the purview of CCR, Title 1, section 100.

Section 87101(m)(1)-(2)

Proposed Change:

Amend and renumber subsections (m)(1) through (m)(2) as (m)(2) through (m)(3) because new language added as subsection (m)(1) (see above).

Section 100 Justification:

These proposed changes do not materially alter any requirement, right, responsibility, condition, proscription or other regulatory element of any CCR provision because this is a change without regulatory effect under CCR, Title 1, subsection 100(a)(1) which states: "Changes without regulatory effect include, ... Renumbering, reordering, ..." These proposed changes renumber subsections without any change to the regulations.

Section 87101(s)(1)

Proposed Change:

Amend to add new language as subsection (s)(1) to incorporate by reference the definition of serious bodily injury as defined by Welfare and Institutions and Code section 15610.67.

Section 100 Justification:

See explanation for amending subsection 80001(s)(1).

Section 87101(s)(1)-(s)(10)

Proposed Change:

Amend and renumber (s)(1) through (s)(10) to (s)(2) through (s)(11) because of added language as 87101(s)(1).

Section 100 Justification:

See explanation for amending subsections 80001(s)(1)-(7).

Section 87211(a)(1)(D)

Proposed Changes:

Amend subsection (a)(1)(D) to remove the words “physical or.”

Section 100 Justification:

The reporting requirements for suspected physical abuse for dependent adults are no longer consistent with the current regulatory requirements established in subsection 87211(b). In order to bring this subsection current, subsection (a)(1)(D) needs to address required reporting of only psychological abuse. This change provides the reporting requirements for suspected psychological abuse of clients remain the same in subsection (a)(1)(D). The new reporting requirements for suspected physical abuse of clients mandated by Welfare and Institutions Code subsection 15630(b)(1) are now incorporated into these regulations (see subsection 87211(b)). These changes do not require regular rulemaking because the existing reporting standards are maintained and the heightened reporting standards of subsection 15630(b)(1) are not being interpreted or made more specific.

Section 87211(b)

Proposed Change:

Amend to add language as subsection (b) which provides for reporting suspected physical abuse with serious bodily injury of an elder or dependent adult within two (2) hours incorporating by reference Welfare and Institutions Code subsection 15630(b)(1).

Section 100 Justification:

See explanation for amending subsection 80061(c).

Section 87211(c)

Proposed Change:

Amend to add language as subsection (c) which provides for reporting physical abuse without serious bodily injury of an elder or dependent adult within twenty-four (24) hours incorporating by reference Welfare and Institutions Code subsection 15630(b)(1).

Section 100 Justification:

Adding this language is a change without regulatory effect pursuant to CCR, Title 1, section 100. This change incorporates by reference the statutory requirements set forth in Welfare and Institutions Code subsection 15630(b)(1). This regulatory change is consistent with changed statute, provides for clarity and ease of use, and does not change existing requirements. For these reasons, it is within the purview of CCR, Title 1, section 100.

Section 87211(b)-(c)

Proposed Change:

Amend and renumber (b) through (c) as (d) through (e) because of added language as subsection 87211(b).

Section 100 Justification:

See explanation for amending subsections 80001(s)(1)-(7).